

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7776

TROY MATTHEW JACKSON,

Plaintiff - Appellant,

versus

CHUCK SPRID,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CA-02-1235-7)

Submitted: February 19, 2004

Decided: February 26, 2004

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Troy Matthew Jackson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Troy Matthew Jackson appeals the district court's order dismissing without prejudice his complaint filed pursuant to 42 U.S.C. § 1983 (2000). The district court's dismissal without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). A dismissal without prejudice is a final order only if "no amendment [in the complaint] could cure the defects in the plaintiff's case.'" Id. at 1067 (quoting Coniston Corp. v. Village of Hoffman Estates, 844 F.2d 461, 463 (7th Cir. 1988)). In ascertaining whether a dismissal without prejudice is reviewable in this court, we must determine "whether the plaintiff could save his action by merely amending his complaint." Id. at 1066-67. In this case, Jackson may move in the district court to reopen his case and to file an amended complaint specifically alleging facts sufficient to state a § 1983 claim. Therefore, the dismissal order is not appealable. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED